

SENATE BILL No. 111

DIGEST OF INTRODUCED BILL

Citations Affected: IC 9-24-11-0.5; IC 9-30-10-4; IC 35-41-1; IC 35-42-2-4.5.

Synopsis: Texting while driving. Makes it a Class C misdemeanor to use a handheld wireless communications device to transmit a text message or electronic mail message while operating a moving motor vehicle, and enhances the penalty for repeat offenses or if a person is injured or killed. Provides that texting while driving may constitute a predicate offense for a habitual traffic violator determination. Makes conforming amendments.

Effective: July 1, 2010.

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January 5, 2010, read first time and referred to Committee on Corrections, Criminal, and Civil Matters.

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Second Regular Session 116th General Assembly (2010)

PRINTING CODE. Amendments: Whenever an existing statute (or a section of the Indiana Constitution) is being amended, the text of the existing provision will appear in this style type, additions will appear in **this style type**, and deletions will appear in ~~this style type~~.

Additions: Whenever a new statutory provision is being enacted (or a new constitutional provision adopted), the text of the new provision will appear in **this style type**. Also, the word **NEW** will appear in that style type in the introductory clause of each SECTION that adds a new provision to the Indiana Code or the Indiana Constitution.

Conflict reconciliation: Text in a statute in *this style type* or ~~this style type~~ reconciles conflicts between statutes enacted by the 2009 Regular and Special Sessions of the General Assembly.

SENATE BILL No. 111

A BILL FOR AN ACT to amend the Indiana Code concerning criminal law and procedure.

Be it enacted by the General Assembly of the State of Indiana:

1 SECTION 1. IC 9-24-11-0.5, AS ADDED BY P.L.101-2009,
2 SECTION 7, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE
3 JULY 1, 2010]: Sec. 0.5. As used in this chapter, "telecommunications
4 device" means an electronic or digital telecommunications device. **The**
5 **term includes a handheld wireless communications device (as**
6 **defined in IC 35-41-1-12.5).**

7 SECTION 2. IC 9-30-10-4 IS AMENDED TO READ AS
8 FOLLOWS [EFFECTIVE JULY 1, 2010]: Sec. 4. (a) A person who has
9 accumulated at least two (2) judgments within a ten (10) year period
10 for any of the following violations, singularly or in combination, not
11 arising out of the same incident, and with at least one (1) violation
12 occurring after March 31, 1984, is a habitual violator:

13 (1) Reckless homicide resulting from the operation of a motor
14 vehicle.

15 (2) Voluntary or involuntary manslaughter resulting from the
16 operation of a motor vehicle.

17 (3) Failure of the driver of a motor vehicle involved in an accident



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1 resulting in death or injury to any person to stop at the scene of
2 the accident and give the required information and assistance.

3 (4) Operation of a vehicle while intoxicated resulting in death.

4 (5) Before July 1, 1997, operation of a vehicle with at least
5 ten-hundredths percent (0.10%) alcohol in the blood resulting in
6 death.

7 (6) After June 30, 1997, and before July 1, 2001, operation of a
8 vehicle with an alcohol concentration equivalent to at least
9 ten-hundredths (0.10) gram of alcohol per:

10 (A) one hundred (100) milliliters of the blood; or

11 (B) two hundred ten (210) liters of the breath;

12 resulting in death.

13 (7) After June 30, 2001, operation of a vehicle with an alcohol
14 concentration equivalent to at least eight-hundredths (0.08) gram
15 of alcohol per:

16 (A) one hundred (100) milliliters of the blood; or

17 (B) two hundred ten (210) liters of the breath;

18 resulting in death.

19 **(8) Texting while driving (IC 35-42-2-4.5) as a felony.**

20 (b) A person who has accumulated at least three (3) judgments
21 within a ten (10) year period for any of the following violations,
22 singularly or in combination, not arising out of the same incident, and
23 with at least one (1) violation occurring after March 31, 1984, is a
24 habitual violator:

25 (1) Operation of a vehicle while intoxicated.

26 (2) Before July 1, 1997, operation of a vehicle with at least
27 ten-hundredths percent (0.10%) alcohol in the blood.

28 (3) After June 30, 1997, and before July 1, 2001, operation of a
29 vehicle with an alcohol concentration equivalent to at least
30 ten-hundredths (0.10) gram of alcohol per:

31 (A) one hundred (100) milliliters of the blood; or

32 (B) two hundred ten (210) liters of the breath.

33 (4) After June 30, 2001, operation of a vehicle with an alcohol
34 concentration equivalent to at least eight-hundredths (0.08) gram
35 of alcohol per:

36 (A) one hundred (100) milliliters of the blood; or

37 (B) two hundred ten (210) liters of the breath.

38 (5) Operating a motor vehicle while the person's license to do so
39 has been suspended or revoked as a result of the person's
40 conviction of an offense under IC 9-1-4-52 (repealed July 1,
41 1991), IC 9-24-18-5(b) (repealed July 1, 2000), IC 9-24-19-3, or
42 IC 9-24-19-5.

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(6) Operating a motor vehicle without ever having obtained a license to do so.

(7) Reckless driving.

(8) Criminal recklessness involving the operation of a motor vehicle.

(9) Drag racing or engaging in a speed contest in violation of law.

(10) Violating IC 9-4-1-40 (repealed July 1, 1991), IC 9-4-1-46 (repealed July 1, 1991), IC 9-26-1-1(1), IC 9-26-1-1(2), IC 9-26-1-1(4), IC 9-26-1-2(1), IC 9-26-1-2(2), IC 9-26-1-3, or IC 9-26-1-4.

(11) Texting while driving as a Class A misdemeanor or as a felony (IC 35-42-2-4.5).

~~(11)~~ **(12)** Any felony under an Indiana motor vehicle statute or any felony in the commission of which a motor vehicle is used.

A judgment for a violation enumerated in subsection (a) shall be added to the violations described in this subsection for the purposes of this subsection.

(c) A person who has accumulated at least ten (10) judgments within a ten (10) year period for any traffic violation, except a parking or an equipment violation, of the type required to be reported to the bureau, singularly or in combination, not arising out of the same incident, and with at least one (1) violation occurring after March 31, 1984, is a habitual violator. However, at least one (1) of the judgments must be for a violation enumerated in subsection (a) or (b). A judgment for a violation enumerated in subsection (a) or (b) shall be added to the judgments described in this subsection for the purposes of this subsection.

SECTION 3. IC 35-41-1-12.5 IS ADDED TO THE INDIANA CODE AS A **NEW** SECTION TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2010]: **Sec. 12.5. "Handheld wireless communications device" means a handheld device used for the transfer of information without the use of electrical conductors or wires. The term includes the following:**

(1) A wireless telephone.

(2) A personal digital assistant.

(3) A pager.

(4) A text messaging device.

SECTION 4. IC 35-41-1-26.6 IS ADDED TO THE INDIANA CODE AS A **NEW** SECTION TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2010]: **Sec. 26.6. "Text message" means a communication in the form of electronic text sent from a handheld wireless communications device.**

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SECTION 5. IC 35-42-2-4.5 IS ADDED TO THE INDIANA CODE AS A NEW SECTION TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2010]: **Sec. 4.5. (a) This section does not apply to a law enforcement officer or an emergency medical services provider while the law enforcement officer or emergency medical services provider is responding to an emergency or operating within the scope of the officer's or provider's employment.**

(b) A person who knowingly or intentionally uses a handheld wireless communications device to transmit a text message or electronic mail message while operating a moving motor vehicle on a public highway (as defined in IC 9-25-2-4) commits texting while driving, a Class C misdemeanor. However, the offense is:

(1) a Class A misdemeanor if, not more than five (5) years before the commission of the offense, the person was convicted of one (1) prior unrelated offense under this section;

(2) a Class D felony if:

(A) the offense results in serious bodily injury to any person; or

(B) not more than five (5) years before the commission of the offense, the person was convicted of two (2) or more prior unrelated offenses under this section;

(3) a Class C felony:

(A) if:

(i) the offense results in serious bodily injury to any person; and

(ii) not more than five (5) years before the commission of the offense, the person was convicted of one (1) or more prior unrelated offenses under this section; or

(B) if the offense results in death; and

(4) a Class B felony if:

(A) the offense results in death; and

(B) not more than five (5) years before the commission of the offense, the person was convicted of one (1) or more prior unrelated offenses under this section.

SECTION 6. [EFFECTIVE JULY 1, 2010] IC 35-42-2-4.5, as added by this act, applies only to crimes committed after June 30, 2010.

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